

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

[1] BLACK EMERGENCY RESPONSE TEAM, et al.

Plaintiffs,

v.

[1] JOHN O’CONNOR, in his official capacity as
Oklahoma Attorney General, et al.

Defendants.

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Case No. CIV-21-1022-G

**OKLAHOMA DEFENDANTS AND OU DEFENDANTS SURREPLY TO
PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION**

COME NOW Robert Ross, Frank Keating, Rick Braught, Natalie Shirley, Eric Stevenson, Anita Holloway, and Rick Nagel, in their official capacities as members of the Board of Regents of the University of Oklahoma (collectively, the “OU Defendants”); Gentner Drummond, in his official capacity as Oklahoma Attorney General; Ryan Walters, in his official capacity as Oklahoma Superintendent of Public Instruction; Donald Burdick, Katie Quebedeaux, Sarah Lepak, Suzanne Reynolds, and Kendra Wesson, in their official capacities as members of the Oklahoma State Board of Education; Kevin Stitt, in his official capacity as Governor of Oklahoma; Jeffrey Hickman, Michael Turpen, Steven; Taylor, Dennis Casey, Dustin Hilliary, Ann Holloway, P. Mitchell Adwon, Jack Sherry, and Courtney Warmington, in their official capacities as the Oklahoma State Board of Regents for Higher Education (collectively, the “Oklahoma Defendants”); and, pursuant to the Court’s Order [Doc. 153], submit this surreply in response to the affidavits attached to Plaintiffs’ Consolidated Reply [Doc. 66].

The information contained in the Declaration of John Doe [Doc. 66-2] should not be afforded any weight in evaluating Plaintiffs’ argument that H.B. 1775 has already affected academic content at the university level. Pls.’ Consol. Reply at 11. This declaration is not entirely a “firsthand account[],” [Doc. 153 at 4], as its primary allegation relating to classroom instruction is hearsay upon hearsay. [Doc. 66-2 at ¶7]. Furthermore, the anonymous double hearsay allegation contained therein is untrue, as attested on the record by the Dean of the University of Oklahoma College of Arts & Sciences. *Compare* Decl. of John Doe [Doc. 66-2] at ¶7, *with* Defendants’ Exhibit 1, Affidavit of David Wrobel.

Likewise, to the extent that the Second Declaration of the Black Emergency Response Team relies on that same false information, it should not be afforded any weight. *See* Second BERT Decl. [Doc. 66-1] at ¶11. Furthermore, there is little connection between the constitutional claims made by Plaintiffs and the irrelevant details and alleged harms in the declarations. For example, the declarant Jamelia Reed provides new allegations, complaining at one point that “hostile groups” invited certain undesirable “speakers to campus” after H.B. 1775. [Doc. 66-1 at ¶10]. Of course, H.B. 1775 says nothing about what speakers, groups, or persons are and are not allowed on campus. The declarant’s allegations are thus utterly irrelevant here.

Moreover, the University of Oklahoma believes that the values of inclusion and diversity are essential to making the university a place of excellence, openness, and learning. These values include the diversity of thought and ideas. The declarant’s allegation

amounts to nothing more than a claim that persons she disagrees with or opposes¹ would never appear on campus if only the University could impose mandatory diversity trainings or orientations rather than making them voluntary. The Court is in no way required to accept this rank speculation, which is untethered from the reality of diverse student groups and campus life.

CONCLUSION

This Court should deny the Motion for Preliminary Injunction.

¹ It is unclear what event the declarant is even referring to involving the Proud Boys. It seems as if she may be referencing incidents that occurred in November 2020, although those took place *before* H.B. 1775 was enacted. *See, e.g.,* Alexia Aston, *Proud Boys members among counter-protestors at OU Ann Coulter appearance*, OU Daily (Nov. 5, 2020), https://www.oudaily.com/news/proud-boys-members-among-counter-protestors-at-ou-ann-coulter-appearance/article_a1d909c8-1fec-11eb-93b7-3fb88b0c1e69.html. The actual speaker at that event was Ann Coulter, not the Proud Boys, who were only briefly present in the Oklahoma Memorial Union. *See id.* Throughout that time, OU's security and staff worked diligently to achieve a safe and orderly event.

Respectfully submitted,

s/Zach West

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of October 2023, I transmitted the attached document to the Clerk of Court using the ECF system for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

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